IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 25369 of 2004

Between:

B.Swamy, s/o Venkateswara Rao,
r/o Gantyada, Visakhapatnam.

..... PETITIONER

AND

1 The Presiding Officer,

The Industrial Tribunal-cum-Labour Court,
Visakhapatnam.
2 The Depot Manager, A.P.S.R.T.C.,

Gajuwaka Depot, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may pleased to issue appropriate writ, order or direction more particularly one in the nature of a writ of certiorari calling for the records pertaining to the case I.D.No.19 of 2002 on the file of the Hon'ble Industrial Tribunal-cum-Labour Court, Visakhapatnam and upon perusal of the same be pleased to set aside the Award passed on 19-04-2004, as the same is illegal, arbitrary, unjust, disproportionate punishment and against the principles of natural justice and consequently direct the 2nd respondent herein to re-instate me into service as Conductor with continuity of service, with full back wages and with all other consequential benefits and costs in the interest of justice and pass such other and further order or orders as this Hon'ble Court may deem fit and proper.

Counsel for the Petitioner: MR.M.VENKAT DIVAKAR

(Not present)

Counsel for Respondent No.1: GP FOR LABOUR

Counsel for Respondent No.2: KUM. B.G. UMA DEVI

The Court at the admission stage made the following :

ORDER:

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None appeared for the petitioner on 18-02-2005. Therefore, the matter is listed today under the caption 'for Orders'. Today also, there is no representation on behalf of the petitioner and hence, the writ petition is taken up for disposal.

This writ petition is filed challenging the award passed by the Industrial Tribunal-cum-Labour Court in I.D.No.19 of 2002 dated 19-04-2004, on the ground that the Enquiry Officer conducted the enquiry with predetermined mind to punish the petitioner as he is an active trade union leader. The petitioner contends that the 2nd respondent imposed a harsh punishment of removal from service without assigning any reasons and without affording any opportunity to him to defend his case and that no passenger was examined during the enquiry. Believing the version of the checking officials, the disciplinary authority passed the impugned award. Hence, the present writ petition.

The scope of judicial review is very much limited. Unless the principles of natural justice are violated or the findings recorded by the Tribunal are perverse or the petitioner was not afforded proper opportunity to adduce evidence or that the findings are not based on the material available on record, this Court will not interfere with the award passed by the Tribunal.

It is a case where the petitioner having collected requisite fare from 16 illiterate lady passengers, failed to issue the tickets to the said passengers. The second charge levelled against the petitioner is that he collected an amount of Rs.64/- at the rate of Rs.4/- each from 16 individuals lady passengers, but issued tickets worth of Rs.0.50/- each only and kept the remaining amount of Rs.56/- with him intentionally. The petitioner did not examine himself to prove that on what basis the findings of the Enquiry Officer are bad or perverse in law. Even in the affidavit filed in this writ petition, the petitioner did not state how the Enquiry Officer had conducted the enquiry with predetermined mind.

The learned Tribunal, on perusal of the enquiry report, came to the conclusion that the petitioner is not disputing the validity of the domestic enquiry proceedings and that the Enquiry Officer relying on the statement of the passengers, and the evidence of the TTI, found the petitioner guilty of the charges. Since the

irregularities committed by the petitioner are serious in nature, the Management imposed the punishment of removal from service.

Since the findings of the Enquiry Officer are not challenged in this writ petition, and it is not stated as to how the principles of natural justice are violated, the findings arrived at by the Tribunal cannot said to be perverse or contrary to law. In the absence of specific allegation with regard to not affording an opportunity to the petitioner to defend his case before the Tribunal or before the Enquiry Officer, and since the findings are not challenged, there are no incurable legal infirmities so as to call for interference of this Court. The misconduct proved is totally in consonance with the punishment imposed. Hence, it is not a case where the punishment is shockingly disproportionate to the proved misconduct.

The writ petition is devoid of merits and is accordingly dismissed at the stage of admission. There shall be no order as to costs.

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21-02-2005

vs/usd

To

1 The Presiding Officer,

The Industrial Tribunal-cum-Labour Court,
Visakhapatnam.

2 The Depot Manager, A.P.S.R.T.C.,

Gajuwaka Depot, Visakhapatnam.

3 Two CCs to the G.P for Labour, High Court Buildings,

Hyderabad(O.U.T).

4 2 CD copies

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 25369 of 2004

Dated: 21-02-2005

vs